

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

IOVATE HEALTH SCIENCES U.S.A., )  
INC., *et al.*, )

Plaintiffs, )

v. )

WELLNX LIFE SCIENCES INC. (d/b/a )  
NV INC.), *et al.*, )

Defendants. )

C.A. No. 07-286-JJF

**SCHEDULING ORDER**

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2 by September 21, 2007.

2. **Joinder of the Parties.** All motions to join other parties shall be filed on or before November 16, 2007.

3. **Discovery.**

(a) Exchange and completion of contention interrogatories, identification of fact witnesses and document production shall be commenced so as to be completed by May 23, 2008. All fact discovery shall be completed by July 25, 2008.

(b) Maximum of twenty-five (25) interrogatories, including contention interrogatories, for each side.

(c) Maximum of twenty-five (25) requests for admission by each side.

(d) Maximum of ten (10) depositions by plaintiffs and ten (10) depositions by defendants, excluding expert depositions. Depositions shall not commence until the discovery required by Paragraph 3(a, b and c) is completed.

(e) Reports from retained experts required by Fed. R. Civ. P. 26(a)(2) are due from the party carrying the burden of proof on an issue thirty (30) days after the *Markman* ruling. Responsive expert reports are due thirty (30) days after the opening reports.

(f) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from receipt of said expert's report, unless otherwise agreed in writing by the parties or ordered by the Court.

**4. Non-Case Dispositive Motions**

(a) Any non-case dispositive motion, along with an Opening Brief, shall be filed with a Notice of Motion. The Notice of Motion shall indicate the date on which the movant seeks to have the motion heard. The date selected shall be within thirty (30) days of the filing of the motion and allow for briefing in accordance with the Federal and Local Rules. Available motion dates will be posted on the Court's website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov).

(b) At the motion hearing, each side will be allocated twenty (20) minutes to argue and respond to questions from the Court.

(c) Upon filing of the Notice of Motion, a copy of said Notice shall be sent to Chambers by email at: [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov).

**5. Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before January 11, 2008.

**6. Case Dispositive Motions.** Any case dispositive motions, pursuant to the Fed. R. Civ. P., shall be served and filed with an opening brief thirty days after the close of expert

discovery. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. The Court will issue a separate Order regarding procedures for filing summary judgment motions.

7. **Markman.** A *Markman* Hearing will be held on September 30, 2008, at 1:00 PM. Opening *Markman* briefs shall be served and filed thirty (30) days prior to the hearing date. Responsive *Markman* briefs shall be served and filed fourteen (14) days prior to the hearing date. The Court, after reviewing the briefing, will allocate time to the parties for the hearing.

8. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court of Delaware (Amended Effective January 1, 1995). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1 and be made in accordance with the Court's December 15, 2006 Order on Procedures for Filing Non-dispositive motions in Patent Cases. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmission will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall email Chambers at: [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov). The email shall provide a short statement describing the emergency.

9. **Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

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UNITED STATES DISTRICT JUDGE